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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91223439
Party	Defendant JS Products, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Stanley Logistics, LLC,)	
)	
Opposer,)	Opposition No. 91223439
)	
v.)	Serial No. 86/429,073
)	
JS Products Inc.,)	
)	
Applicant.)	
)	

**APPLICANT’S REPLY TO OPPOSER’S OPPOSITION TO
APPLICANT’S MOTION TO DISMISS THE NOTICE OF OPPOSITION FOR
FAILURE TO STATE A CLAIM
UNDER RULE 12(b)(6) WITH RESPECT TO OPPOSER’S COUNT II**

Applicant JS Products Inc., (“Applicant”) submits this reply in response to Stanley Logistics, LLC’s (“Opposer”) opposition to Applicant’s Motion to Dismiss the Notice of Opposition for failure to state a claim upon which relief may be granted with respect to Count II.

As an initial matter, clarification is required. In its motions to dismiss, Applicant correctly asserted that Opposer’s Count II pleading in its recently filed Notice of Opposition in Proceeding No. 91223439 (filed on August 20, 2015) is the same as in its Amended Notice of Opposition in Proceeding Nos. 91221141 and 91221566 (filed on March 18, 2015 and April 16, 2015) and vice versa. Opposer apparently misread Applicant’s motions and mistakenly argues that “Applicant makes the utterly false claim that Count II of the Amended Notice of Opposition [in Opposition Nos. 91221141 and 91221566] and Count II of the subject Notice of Opposition are identical.” Quite to

contrary, Applicant accurately quoted Opposer's new allegations in its motion in Proceeding Nos. 91221141 and 91221566. The only thing that is "utterly false" is Opposer's baseless attack.

In its Motion to Dismiss, Applicant argued that

- (1) Opposer has not (and cannot) sufficiently plead deceptiveness under Section 2(a) of the Trademark Act because Applicant's Mark "PROTOCOL" is incapable of misdescribing the character, quality, function, composition or use of the recited goods ("deceptiveness claim"), and
- (2) Opposer has not (and cannot) sufficiently plead a ground of false suggestion of a connection under Section 2(a) of the Trademark Act ("false suggestion claim").

In its Response, Opposer did not address the deficiency in its deceptiveness claim, and accordingly concedes that that Applicant's Mark cannot misdescribe the recited goods. Thus, the Board at a minimum must strike paragraph 20 of the Notice of Opposition that is directed to the deceptiveness claim.

In its Response on the false suggestion claim, Opposer does not proffer any allegations from which one could infer that PROTO is anything more than a trademark of Opposer, as distinguished from Opposer's name or identity. Opposer has instead rested on its conclusory allegations which are insufficient. Accordingly, the remainder of Count II must be stricken.

Leave to further amend should not be granted because Opposer had an opportunity to consider its claim and Opposer has not shown that it has a viable Section 2(a) claim.

WHEREFORE, Applicant prays that its motion be granted and the Notice of Opposition be dismissed with respect to Count II.

Respectfully submitted,

By: /s/ Tanja Proehl
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S
REPLY TO OPPOSER'S OPPOSITION TO APPLICANT'S MOTION TO DISMISS
THE NOTICE OF OPPOSITION FOR FAILURE TO STATE A CLAIM UNDER RULE
12(b)(6) WITH RESPECT TO OPPOSER'S COUNT II has been served upon the
following counsel for Opposer:

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by email as agreed upon, on this 24 day of September, 2015.

By: /s/ Tanja Proehl
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